

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

| | | |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, | * | |
| | * | |
| Plaintiff, | * | |
| | * | |
| vs. | * | No. 4:07cr00307 SWW |
| | * | |
| | * | |
| | * | |
| DAX RAMON PHILLIPS, | * | |
| | * | |
| Defendant. | * | |

ORDER

By Memorandum and Order entered April 21, 2008 [doc.#25], this Court found Dax Ramon Phillips, on a charge of attempted bank robbery, not guilty only by reason of insanity. Pursuant to 18 U.S.C. § 4243(a), this Court directed that Phillips be committed to the custody of the United States Attorney General for placement in a suitable facility and that pursuant to 18 U.S.C. § 4243(b) and § 4247(b) and (c), a psychological examination be conducted by Jason V. Dana, Psy.D, Forensic Studies Unit Psychologist at the Federal Bureau of Prisons' Metropolitan Correctional Center in Chicago, Illinois, and a psychological report prepared and filed with the Court.¹ Having since consulted with the government, the Court vacates that portion of the April 21st Memorandum and Order directing that the examination be conducted by Dr. Dana and, instead, the Court only directs that pursuant to 18 U.S.C. § 4243(a), Phillips be committed to the custody of the United States Attorney General for placement in a suitable facility and that pursuant to 18 U.S.C. § 4243(b) and § 4247(b) and (c), a psychiatric or psychological examination be conducted and a psychiatric or psychological report prepared and filed with the

¹ Jason Dana is the psychologist who conducted previous examinations of Phillips.

Court. The Court will hold a commitment hearing within forty (40) days of the entry of the April 21st Memorandum and Order in accordance with 18 U.S.C. § 4243(c) at which Phillips will have the burden of proving by clear and convincing evidence that his release would not pose a substantial risk of bodily injury or serious injury to property. *See* 18 U.S.C. § 4243(d). *See also United States v. LaFrombosie*, 836 F.2d 1149, 1150-51 (8th Cir. 1988); *United States v. Wallace*, 845 F.2d 1471, 1472 (8th Cir. 1988).²

IT IS SO ORDERED this 25th day of April 2008.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

² The hearing is presently set for May 21, 2008.